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14 Toshiba America, Inc., Toshiba America  
15 Information Systems, Inc., Toshiba America  
16 Consumer Products, L.L.C., and Toshiba  
17 America Electronic Components, Inc.*

18  
19 UNITED STATES DISTRICT COURT  
20 NORTHERN DISTRICT OF CALIFORNIA  
21 (SAN FRANCISCO DIVISION)

22  
23 IN RE: CATHODE RAY TUBE (CRT)  
24 ANTITRUST LITIGATION

25  
26 Case No. 07-5944 SC  
27 MDL No. 1917

28 This Document Relates to:

Case No. C 11-6397 SC

COSTCO WHOLESALE CORPORATION,

Plaintiff,

v.

HITACHI, LTD., et al.,

Defendants.

**DECLARATION OF LUCIUS B.  
LAU IN SUPPORT OF THE  
TOSHIBA DEFENDANTS'  
ADMINISTRATIVE MOTION TO  
FILE DOCUMENT UNDER SEAL  
PURSUANT TO CIVIL LOCAL  
RULES 7-11 AND 79-5(d)**

DECLARATION OF LUCIUS B. LAU IN SUPPORT OF TOSHIBA  
DEFENDANTS' ADMINISTRATIVE MOTION TO FILE DOCUMENT  
UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(d)

Case No. C 11-6397 SC  
MDL No. 1917

1 I, Lucius B. Lau, hereby declare as follows:

2       1. I am Counsel with the law firm of White & Case LLP, counsel for Defendants  
 3 Toshiba Corporation, Toshiba America, Inc., Toshiba America Information Systems, Inc.,  
 4 Toshiba America Consumer Products, L.L.C., and Toshiba America Electronic Components,  
 5 Inc. (collectively, the “Toshiba Defendants”).

6       2. I submit this declaration in support of the Toshiba Defendants’ Administrative  
 7 Motion to File Document Under Seal Pursuant to Civil Local Rules 7-11 and 79-5(d), with  
 8 which the Toshiba Defendants seek to file under seal Exhibit A to the Declaration of Lucius  
 9 B. Lau in Support of the Toshiba Defendants’ Motion to Compel Arbitration.

10      3. On December 10, 2007, Judge Illston issued a Stipulated Protective Order in  
 11 *In re: TFT-LCD (Flat Panel) Antitrust Litigation*, No. M 07-1827 SI (N.D. Cal.) (Dkt. No.  
 12 421) (“LCD Stipulated Protective Order”).

13      4. On June 13, 2011, Costco produced a copy of an executed Vendor Agreement  
 14 between Costco and Toshiba America Consumer Products, Inc. (the “Vendor Agreement”) as  
 15 CostcoLCD\_000000013-17 in *In re: TFT-LCD (Flat Panel) Antitrust Litigation*, No. M 07-  
 16 1827 SI (N.D. Cal.) (attached as Exhibit A to the Declaration of Lucius B. Lau in Support of  
 17 the Toshiba Defendants’ Motion to Compel Arbitration). Costco designated the Vendor  
 18 Agreement as “Confidential” pursuant to the LCD Stipulated Protective Order.

19      5. Pursuant to section 5.2 of the LCD Stipulated Protective Order, the parties  
 20 were permitted to designate documents as “Confidential.” Section 2.3 of the LCD Stipulated  
 21 Protective Order defines “Confidential Information or Items” as “information or tangible  
 22 things that qualify for protection under standards developed under Fed. R. Civ. P. 26(c).”

23      6. Section 10 of the LCD Stipulated Protective Order requires that a party  
 24 seeking to file under seal any documents designated “Confidential” under the LCD Stipulated  
 25 Protective Order “must comply with Civil Local Rule 79-5.”

26      7. The Toshiba Defendants wish to file the Vendor Agreement, attached as  
 27 Exhibit A to the Declaration of Lucius B. Lau in Support of the Toshiba Defendants’ Motion  
 28 to Compel Arbitration, under seal, pursuant to Civil Local Rules 7-11 and 79-5(d) because

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1 | Costco designated the document “Confidential” pursuant to the LCD Stipulated Protective  
2 | Order.

3           8.         On August 22, 2012, Costco agreed to the use of the Vendor Agreement in this  
4 matter on the condition that the Toshiba Defendants file it under seal.

5       9.       A stipulation by the parties under Local Civil Rule 7-11 could not be obtained  
6 because under Civil Local Rule 79-5, parties may not stipulate to the filing of any document  
7 under seal. *See* Civil L.R. 79-5 (“A stipulation . . . will not suffice to allow the filing of  
8 documents under seal.”).

I declare under penalty of perjury under the laws of the United States of America that  
the foregoing is true and correct.

13 Executed this 24<sup>th</sup> day of August, 2012, in Washington, D.C.

Lucius B. Lau

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## **CERTIFICATE OF SERVICE**

On August 24, 2012, I caused a copy of “DECLARATION OF LUCIUS B. LAU IN SUPPORT OF THE TOSHIBA DEFENDANTS’ ADMINISTRATIVE MOTION TO FILE DOCUMENT UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(d)” to be electronically filed via the Court’s Electronic Case Filing System, which constitutes service in this action pursuant to the Court’s order of September 29, 2008.

Lucius B. Lau

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INT TO CIVIL LOCAL  
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